

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,))
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES))
FOR THE STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.) 4:05-CV-00329-TCK-SAJ
)
TYSON FOODS, INC., et al,)
)
Defendants.)

THE VIDEOTAPED DEPOSITION OF
TOMMY DANIEL, PhD, produced as a witness on
behalf of the Plaintiff in the above styled and
numbered cause, taken on the 26th day of November,
2007, in the City of Fayetteville, County of
Washington, State of Arkansas, before me, Lisa A.
Steinmeyer, a Certified Shorthand Reporter, duly
certified under and by virtue of the laws of the
State of Oklahoma.

Exhibit 5

TULSA FREELANCE REPORTERS
918-587-2878

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1 that poultry waste generated at the barn?

2 A It's generally cleaned out once a year.

3 Q When it's cleaned out, what usually becomes of
4 it?

5 A It's land applied. 09:35AM

6 Q And when you say land applied, it's spread on
7 land. It's my understanding it's generally not
8 incorporated when it's spread; is that true?

9 A It is not incorporated at the present time
10 generally, common practice. 09:35AM

11 Q And that's been the common practice in the
12 past; correct?

13 A Yes.

14 Q Based on your experience and knowledge, how
15 long has spreading poultry waste when it's removed 09:35AM
16 from the barns been done by the poultry growers?

17 A Well, certainly to my knowledge since '89, and
18 I'm told that it's occurred prior to that as a
19 fertilizer for the pasture and also been told that
20 prior to that, the soils were very infertile, and 09:36AM
21 this was a good practice that the growers liked and
22 that's how the cow-calf operation became so
23 prevalent in northwest Arkansas.

24 Q In your educating yourself with regard to
25 common practice in the poultry industry, did you 09:36AM

1 Q This was published in '95, the one we are
2 looking at, Exhibit 4.

3 A Let's take one there. Wilkinson was '79 and
4 '90. I mean these are -- doesn't take a rocket
5 scientist to figure out this is good fertilizer.
6 When you put it out, it's obvious where you put
7 litter and where you haven't.

10:17AM

8 Q At Page 322 you point out that litter is
9 removed after five grow-outs and that it says
10 currently litter is removed after five grow-outs,
11 which is once a year. Upon removal, this material
12 may be directly land applied or temporarily stored.

10:18AM

13 Let me ask you this: Do you know whether or not
14 once it's removed, that the poultry waste, poultry
15 litter has any use in the growing of the poultry
16 thereafter?

10:18AM

17 A Not to my knowledge, no.

18 Q That's in part why it's being spread on the
19 land, is it not?

20 A Yes.

10:18AM

21 Q Under the heading land application manure, you
22 talk about except for small amounts of poultry
23 manure used in animal feed, the major portion,
24 greater than 90 percent, is applied to agricultural
25 land. That's the customary practice that I think we

10:19AM